

advise, assist, accompany, coordinate, or provide logistical or material support or training for any foreign regular or irregular military forces if—

“(i) those foreign forces are involved in hostilities; and

“(ii) such activities by United States forces make the United States a party to a conflict or are more likely than not to do so.

“(2) SUBSTANTIALLY ENLARGE.—

“(A) IN GENERAL.—The term ‘substantially enlarge’ means, for any 2 year period, an increase of the number of United States Armed Forces that causes the total number of forces in a foreign country to exceed the lowest number of forces in that country during that period by 25 percent or more, or any increase of 1,000 or more forces.

“(B) SPECIAL RULE.—Temporary duty and rotational forces shall be included in the number of United States Armed Forces for the purposes of subparagraph (A).”.

SA 4266. Mr. MURPHY (for himself and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title XII, add the following:

SEC. 1283. AMENDMENT OF REPORTING REQUIREMENTS FOR THE INTRODUCTION OF ARMED FORCES INTO HOSTILITIES.

Section 4 of the War Powers Resolution (50 U.S.C. 1543) is amended—

(1) in the matter following subsection (a)(3) by striking subparagraphs (A) through (C) and inserting the following:

“(A) the circumstances necessitating the introduction of United States Armed Forces into hostilities or a situation where there is a serious risk of hostilities, or retaining them in a location where hostilities or the serious risk of hostilities has developed;

“(B) the estimated cost of such action;

“(C) the specific legislative and constitutional authority for such action;

“(D) any international law implication related to such action if applicable;

“(E) the estimated scope and duration of United States Armed Forces’ participation in hostilities, including an accounting of the personnel and weapons to be deployed;

“(F) the foreign country (or countries) in which the operations or deployment of United States Armed Forces are to occur or are ongoing;

“(G) a description of their mission and the mission objectives that would indicate the mission is complete;

“(H) any foreign partner force or multilateral organization that may be involved in the operations;

“(I) the name of the specific foreign country (or countries) or organized armed group (or groups) against which the use of force is authorized;

“(J) the risk to United States Armed Forces or other United States persons or property involved in the operations; and

“(K) any other information as may be required to fully inform Congress of such action.”; and

(2) by adding at the end the following new subsection:

“(d) In this joint resolution, the term ‘hostilities’ means any situation involving any

use of lethal or potentially lethal force by or against United States Armed Forces (or for purposes of assigning or detailing of members of United States Armed Forces to command, advise, assist, accompany, coordinate, or provide logistical or material support or training for any foreign regular or irregular military forces), irrespective of the domain, whether such force is deployed remotely, or the intermittency thereof. The term does not include activities undertaken pursuant to section 503 of the National Security Act of 1947 (50 U.S.C. 3093) if such action is intended to have exclusively non-lethal effects.”.

SA 4267. Mr. MURPHY submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1064. AUTHORIZATION FOR UNITED STATES PARTICIPATION IN THE COALITION FOR EPIDEMIC PREPAREDNESS INNOVATIONS.

(a) IN GENERAL.—The United States is authorized to participate in the Coalition for Epidemic Preparedness Innovations (referred to in this section as “CEPI”) as a Member of the Investors Council.

(b) INVESTORS COUNCIL AND BOARD OF DIRECTORS.—

(1) INITIAL DESIGNATION.—The President shall designate an employee of the United States Agency for International Development—

(A) to represent the United States on the Investors Council; and

(B) if such employee is nominated to the Board of Directors of CEPI, to represent the United States on the Board of Directors during the period beginning on the date of such designation and ending on September 30, 2022.

(2) ONGOING DESIGNATIONS.—The President may designate an employee of the relevant Federal department or agency with fiduciary responsibility for United States contributions to CEPI—

(A) to represent the United States on the Investors Council; and

(B) if such employee is nominated to the Board of Directors of CEPI, to represent the United States on the Board of Directors.

(3) QUALIFICATIONS.—Any employee designated pursuant to paragraph (1) or (2) shall have demonstrated knowledge and experience in the fields of development and public health, epidemiology, or medicine from the Federal department or agency with primary fiduciary responsibility for United States contributions under subsection (c).

(c) CONSULTATION.—Not later than 60 days after the date of the enactment of this Act, the employee designated pursuant to subsection (b)(1) shall consult with the appropriate congressional committees regarding—

(1) the manner and extent to which the United States plans to participate in CEPI, including through the governance of CEPI;

(2) any planned financial contributions to CEPI from the United States; and

(3) how participation in CEPI is expected to support—

(A) the United States Government Global Health Security Strategy;

(B) the applicable revision of the National Biodefense Strategy required under section

1086 of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 104); and

(C) any other relevant programs relating to global health security and biodefense.

(d) UNITED STATES CONTRIBUTIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President, consistent with section 10003(a)(1) of the American Rescue Plan Act of 2021, should immediately make a \$300,000,000 contribution to CEPI to expand the research and development of vaccines to combat the spread of COVID-19 variants.

(2) NOTIFICATION.—Not later than 15 days before a contribution is made available pursuant to paragraph (1), the President shall notify the appropriate congressional committees of the amount of such contribution and the purposes and national interests served by such contribution.

SA 4268. Mr. MURPHY (for himself, Mr. LEE, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

Subtitle H—National Security Powers Act of 2021

SEC. 1071. SHORT TITLE.

This subtitle may be cited as the “National Security Powers Act of 2021”.

PART I—WAR POWERS REFORM

SEC. 1073. DEFINITIONS.

In this part:

(1) COUNTRY.—The term “country”, when used in a geographic sense, includes territories (whether or not disputed) and possessions, territorial waters, and airspace.

(2) HOSTILITIES.—The term “hostilities” means any situation involving any use of lethal or potentially lethal force by or against United States forces (or, for purposes of paragraph 4(B), by or against foreign regular or irregular forces), irrespective of the domain, whether such force is deployed remotely, or the intermittency thereof. The term does not include activities undertaken pursuant to section 503 of the National Security Act of 1947 (50 U.S.C. 5093) if such action is intended to have exclusively non-lethal effects.

(3) HOSTILITIES REPORT.—The term “hostilities report” means a written report that sets forth the following information:

(A) The circumstances necessitating the introduction of United States forces into hostilities or a situation where there is a serious risk thereof, or retaining them in a location where hostilities or the serious risk thereof has developed.

(B) The estimated cost of such operations.

(C) The specific legislative and constitutional authority for such action.

(D) Any international law implications related to such action if applicable.

(E) The estimated scope and duration of the United States forces’ participation in hostilities, including an accounting of the personnel and weapons to be deployed.

(F) The country or countries in which the operations or deployment of United States forces are to occur or are ongoing.

(G) A description of their mission and the mission objectives that would indicate the mission is complete.

(H) Any foreign partner forces or multilateral organizations that may be involved in the operations.

(I) The name of the specific country (or countries) or organized armed group (or groups) against which the use of force is authorized.

(J) The risk to United States forces or other United States persons or property involved in the operations.

(K) Any other information as may be required to fully inform Congress.

(4) **INTRODUCE.**—The term “introduce” means—

(A) with respect to hostilities or a situation where there is a serious risk of hostilities, any commitment, engagement, or other involvement of United States forces, whether or not constituting self-defense measures by United States forces in response to an attack or serious risk thereof in any foreign country (including its airspace, cyberspace, or territorial waters) or otherwise outside the United States and whether or not United States forces are present or operating remotely launched, piloted, or directed attacks; or

(B) the assigning or detailing of members of United States forces to command, advise, assist, accompany, coordinate, or provide logistical or material support or training for any foreign regular or irregular military forces if—

(i) those foreign forces are involved in hostilities; and

(ii) such activities by United States forces make the United States a party to a conflict or are more likely than not to do so.

(5) **SERIOUS RISK OF HOSTILITIES.**—The term “serious risk of hostilities” means any situation where it is more likely than not that the United States forces will become engaged in hostilities, irrespective of whether the primary purpose of the mission is training or assistance.

(6) **SPECIFIC STATUTORY AUTHORIZATION.**—The term “specific statutory authorization” means any joint resolution or bill introduced after the date of the enactment of this Act and enacted into law to authorize the use of military force that includes, at a minimum, the following elements:

(A) A clearly defined mission and operational objectives and the identities of all individual countries or organized armed groups against which hostilities by the United States forces are authorized.

(B) A requirement the President seek from the Congress a subsequent specific statutory authorization for any expansion of the mission to include new operational objectives, additional countries, or organized armed groups.

(C) A termination of the authorization for such use of United States forces within two years absent the enactment of a subsequent specific statutory authorization for such use of United States forces.

(D) In cases where the use of military force in a particular situation is being reauthorized, an estimate and analysis prepared by the Congressional Budget Office of costs to United States taxpayers to date of operations conducted pursuant to the prior authorization or authorizations for that situation, and of prospective costs to United States taxpayers for operations to be conducted pursuant to the proposed authorization.

(7) **SUBSTANTIALLY ENLARGE.**—The term “substantially enlarge” means, for any two-year period, an increase in the number of United States forces that causes the total number of forces in a foreign country to exceed the lowest number of forces in that country during that period by 25 percent or more, or any increase of 1,000 or more forces. Temporary duty and rotational forces shall

be included in the number of United States forces for the purposes of this part.

(8) **TRAINING.**—When used with respect to any foreign regular or irregular forces, the term “training” has the meaning given the term “military education and training” in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403), but does not include training that is focused entirely on observance of and respect for the law of armed conflict, human rights and fundamental freedoms, the rule of law, and civilian control of the military.

(9) **UNITED STATES FORCES.**—The term “United States forces” means any individuals employed by, or under contract to, or under the direction of, any department or agency of the United States Government who are—

(A) deployed military or paramilitary personnel; or

(B) military or paramilitary personnel who use lethal or potentially lethal force in the cyberspace domain.

SEC. 1074. POLICY.

The constitutional authority of the President as Commander-in-Chief to introduce United States Armed forces into hostilities or into situations where there is a serious risk of hostilities shall be exercised only pursuant to—

(1) a declaration of war;

(2) specific statutory authorization; or

(3) when necessary to repel a sudden attack, or the concrete, specific, and immediate threat of such a sudden attack upon the United States, its territories, or possessions, its armed forces, or other United States citizens overseas.

SEC. 1075. SUNSET OF EXISTING AUTHORIZATIONS FOR THE USE OF MILITARY FORCE.

Effective 180 days after the date of the enactment of this Act, the following laws are hereby repealed:

(1) The Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243; 116 Stat. 1498; 50 U.S.C. 1541 note).

(2) The Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note).

(3) The Authorization for Use of Military Force Against Iraq (Public Law 102-1; 105 Stat. 3; 50 U.S.C. 1541 note).

(4) The 1957 Authorization for Use of Military Force in the Middle East (Public Law 87-5).

SEC. 1076. REPEAL OF THE WAR POWERS RESOLUTION.

The War Powers Resolution (Public Law 93-148; 50 U.S.C. 1541 et seq.) is hereby repealed.

SEC. 1077. NOTIFICATION.

The President shall notify Congress, in writing, within 48 hours after United States forces enter the territory, airspace, or waters of a foreign country—

(1) while equipped for combat, except for deployments which relate solely to transportation, supply, replacement, or training of such United States forces; or

(2) in numbers that substantially enlarge the number of United States forces already located in a foreign nation.

SEC. 1078. REQUIREMENT FOR AUTHORIZATION.

(a) **PRIOR AUTHORIZATION FOR CERTAIN ACTIVITIES RELATING TO HOSTILITIES.**—Except as provided in subsection (b), before introducing United States forces into hostilities or a situation where there is a serious risk of hostilities, the President shall provide a hostilities report to Congress and obtain a specific statutory authorization for such introduction. The President shall provide continuing hostilities reports to Congress 30 days after the initial report and every 30

days thereafter, in accordance with subsection (d).

(b) **AUTHORIZATION FOR CERTAIN ACTIVITIES RELATING TO HOSTILITIES.**—In cases where the President introduces United States forces into hostilities or a situation where there is a serious risk of hostilities either because of the need to repel a sudden attack upon the United States, its territories or possessions, its armed forces, or other United States citizens overseas or because the concrete, specific, and immediate threat of such a sudden attack, and the time required to provide Congress with a briefing necessary to inform a vote to obtain prior authorization from Congress within 72 hours would prevent an effective defense against the attack or threat of immediate attack, the President shall—

(1) within 48 hours of ordering the introduction of United States forces into hostilities or a situation where there is a serious risk of hostilities, inform Congress of the President's decision, describe the action taken, the justification for proceeding without prior authorization, and certifying either that hostilities have concluded or that they are continuing; and

(2) not later than 7 calendar days after ordering the introduction of United States forces into hostilities or a situation where there is a serious risk of hostilities, submit to Congress a hostilities report and request for specific statutory authorization except in cases where a certification is submitted to Congress that the President—

(A) has withdrawn, removed, and otherwise ceased the use of United States forces from the situation that triggered this requirement; and

(B) does not intend to reintroduce them.

(c) **TERMINATION OF ACTIVITIES RELATED TO HOSTILITIES.**—If Congress does not enact a specific statutory authorization for United States forces to engage in hostilities in response to a request in accordance with subsection (b) within 20 days after the introduction of United States forces into hostilities or a situation where there is a serious risk of hostilities, the President shall withdraw, remove, and otherwise cease the use of United States forces. This 20-day period shall be extended for not more than an additional 10 days if the President determines, certifies, and justifies to Congress in writing that unavoidable military necessity involving the safety of the forces requires the continued use of the forces for the sole purpose of bringing about their safe removal from hostilities.

(d) **CONTINUING HOSTILITIES REPORTS.**—If the President obtains specific statutory authorization, the President shall continue to provide hostilities reports to Congress on the United States' forces' engagement or possible engagement in hostilities whenever there is a material change in the information previously reported under this section and in no event less frequently than every 30 days from the delivery of the first hostilities report.

(e) **FORM.**—Any report submitted pursuant to subsection (a), (b), or (d) shall be submitted to Congress in unclassified form without any designation relating to dissemination control and may include a classified annex only to the extent required to protect the national security of the United States.

(f) **TRANSMITTAL.**—Each report submitted pursuant to subsection (a), (b), or (d) shall be transmitted to each house of Congress on the same calendar day. The report shall be—

(1) referred to—

(A) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) made available to any member of Congress upon request.

SEC. 1079. EXPEDITED PROCEDURES FOR CONGRESSIONAL ACTION.

(a) **CONSIDERATION BY CONGRESS.**—Any resolution of disapproval described in subsection (b) may be considered by Congress using the expedited procedures set forth in this section.

(b) **RESOLUTION OF DISAPPROVAL.**—For purposes of this section, the term “resolution” means only a joint resolution of the two Houses of Congress—

(1) the title of which is as follows: “A joint resolution disapproving of the use of the United States Armed Forces in the prosecution of certain conflict.”;

(2) which does not have a preamble; and

(3) the sole matter after the resolving clause of which is as follows: “That Congress does not approve the use of military force in the prosecution of _____”, with the blank space being filled with a description of the conflict concerned.

(c) **REFERRAL.**—A resolution described in subsection (b) introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. A resolution described in subsection (b) that is introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives.

(d) **DISCHARGE.**—If the committee to which a resolution described in subsection (b) is referred has not reported such resolution (or an identical resolution) by the end of 10 calendar days beginning on the date of introduction, such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(e) **CONSIDERATION.**—

(1) **IN GENERAL.**—On or after the third calendar day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (d)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) **DEBATE.**—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) **VOTE ON FINAL PASSAGE.**—Immediately following the conclusion of the debate on the resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) **APPEALS FROM DECISIONS OF CHAIR.**—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(f) **CONSIDERATION BY OTHER HOUSE.**—

(1) **IN GENERAL.**—If, before the passage by one House of a resolution of that House described in subsection (b), that House receives from the other House a resolution described in subsection (b), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B)(i) The consideration as described in (e) in that House shall be the same as if no resolution had been received from the other House; but

(ii) The vote on final passage shall be on the resolution of the other House.

(2) **FOLLOWING DISPOSITION.**—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(g) **VETOES.**—If the President vetoes a resolution, debate in the Senate of any veto message with respect to the resolution, including all debatable motions and appeals in connection with the resolution, shall be limited to 10 hours, which shall be divided equally between those favoring and those opposing the resolution.

(h) **RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.**—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (b), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 1080. TERMINATION OF FUNDING.

Notwithstanding any other provision of law, no funds appropriated or otherwise made available under any law may be obligated or expended for any activity by United States forces for which prior congressional authorization is required under this part but has not been obtained, or for which authorization is required under this part but has not been obtained by the deadline specified in section 1078(c) or for which a resolution of disapproval in accordance with section 1079(b) has been enacted into law.

SEC. 1081. INTERPRETATION OF STATUTORY AUTHORITY REQUIREMENT.

Statutory authority to introduce United States forces into hostilities or into situations where there is a serious risk of hostilities, or to retain them in a situation where hostilities or the serious risk thereof has developed, shall not be inferred—

(1) from any provision of law, including any provision contained in any appropriation Act, unless such provision expressly authorizes such introduction or retention and states that it is intended to constitute specific statutory authorization within the meaning of this part; or

(2) from any source of international legal obligation binding on the United States, including any resolution of the United Nations Security Council and any treaty ratified before, on, or after the date of the enactment of this Act, unless such treaty is implemented by legislation specifically authorizing such introduction or retention and stating that it is intended to constitute specific statutory authorization within the meaning of this part.

SEC. 1082. SEPARABILITY CLAUSE.

If any provision of this part or the application thereof to any person or circumstance is held invalid, the remainder of the resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

PART II—ARMS EXPORT CONTROL

SEC. 1085. SHORT TITLE.

This part may be cited as the “Arms Export Reform Act of 2021”.

SEC. 1086. PURPOSE.

It is the purpose of this part to ensure the proper role of Congress in national security decisions pertaining to sales, exports, leases, and loans of defense articles, especially with respect to armed conflict and human rights.

SEC. 1087. CONGRESSIONAL AUTHORIZATION OF ARMS SALES.

(a) **CERTIFICATION REQUIRED.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, in the case of a covered letter of offer, a covered application for a license, or a covered agreement, before such a letter of offer or license is issued or before such an agreement is entered into or renewed, the President shall submit to Congress a certification described in paragraph (3).

(2) **COVERED LETTERS OF OFFERS, APPLICATIONS FOR LICENSES, AND AGREEMENTS.**—For purposes of this subsection:

(A) A covered letter of offer is any letter of offer to sell under the Arms Export Control Act (22 U.S.C. 2751 et seq.) any item described in subsection (c).

(B) A covered application for a license is any application by a person (other than with regard to a sale under section 21 or 22 of the Arms Export Control Act (22 U.S.C. 2761, 2762)) for a license for the export of any item described in subsection (c).

(C) A covered agreement is any agreement involving the lease under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.), or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.), of any item described in subsection (c) to any foreign country or international organization for a period of one year or longer.

(3) **CERTIFICATION DESCRIBED.**—A certification described in this paragraph is a numbered certification containing the following:

(A) In the case of a letter of offer to sell, the information described in section 36(b)(1) of the Arms Export Control Act (22 U.S.C. 2776(b)(1)) and section 36(b)(2) of such Act, as redesignated by section 1090(a) of this Act, without regard to the dollar amount of such sale, except as specified in subsection (c).

(B) In the case of a license for export (other than with regard to a sale under section 21 or 22 of the Arms Export Control Act (22 U.S.C. 2761, 2762)), the information described in section 36(c) of such Act (22 U.S.C. 2776(c)), as amended by section 1090(b) of this Act, without regard to the dollar amount of such export, except as specified in subsection (c).

(C) In the case of a lease or loan agreement, the information described in section 62(a) of the Arms Export Control Act (22 U.S.C. 2796a(a)), unless section 62(b) of such Act (22 U.S.C. 2796a(b)) applies, without regard to the dollar amount of such lease or loan, except as specified in subsection (c).